

EVICTION SUIT

Justice Court Pct. 1 of Tom Green County, Texas
122 W. Harris, Rm. 8- San Angelo, TX 76903

www.co.tom-green.tx.us

Honorable Susan Werner
Justice Of The Peace
(325)659-6444

Information/ instructions for filing an **Eviction Suit**. Please read carefully before completing the Petition.

PLEASE NOTE: EFFECTIVE AUGUST 31, 2013 ALL CIVIL SUITS IN JUSTICE COURTS WILL BE GOVERNED BY NEW RULES OF CIVIL PROCEDURE FOR JUSTICE COURT CASES ADOPTED BY THE SUPREME COURT OF TEXAS. TO REVIEW THE NEW RULES OR PRINT A COPY PLEASE VISIT THE TOM GREEN COUNTY WEBSITE AT www.co.tom-green.tx.us. IT IS HIGHLY RECOMMENDED THAT YOU REVIEW THE NEW RULES PRIOR TO FILING YOUR CASE.

TO REVIEW ALL THE TEXAS RULES OF CIVIL PROCEDURE AND RULES OF EVIDENCE PLEASE USE THE FOLLOWING LINK TO THE SUPREME COURT OF TEXAS. <http://www.supreme.courts.state.tx.us/rules/rules.asp>

COURT PERSONNEL ARE PROHIBITED FROM TELLING YOU WHICH PRECINCT YOUR ADDRESS IS LOCATED IN. YOU MAY CONSULT THE COUNTY MAP IN THE COURT'S FOYER OR CONTACT THE TOM GREEN COUNTY ELECTIONS OFFICE AT 113 W. BEAUREGARD, 325-659-6541 TO DETERMINE WHICH PRECINCT THE PROPERTY IS LOCATED. COURT PERSONNEL ARE PROHIBITED IN GIVING "LEGAL ADVICE". ALTHOUGH AN ATTORNEY IS NOT REQUIRED, YOU MAY WISH TO CONSULT AN ATTORNEY.

Prior to filing suit, the landlord **must serve a proper vacate notice, in compliance with Section 24.005, Texas Property Code**, to *each* person signing the lease.

Completing your petition:

Chapter 24, Texas Property Code requires that AN EVICTION SUIT MUST BE FILED IN THE COUNTY AND PRECINCT WHERE THE PROPERTY IS LOCATED. IF AN EVICTION SUIT IS NOT FILED IN THE APPROPRIATE PRECINCT, THE CASE WILL BE DISMISSED

The Petition must be FULLY COMPLETED and typed or printed neatly in ink. A service (physical) address as well as a mailing address is required for all properties including rural properties and mobile homes/trailer parks.

The attached petition covers all causes of action in an **Eviction Suit** such as owner wants possession, suits for back rent, and breach of lease by tenant.

An **Eviction Suit** may be joined with a suit for back rent only. The amount actually owed must be \$20,000 or less. **No late fees or damages to the property may be included.** For those actions ask for Justice Court Small Claims Case information.

What must be filed?

ONE ORIGINAL PETITIONS

ONE Original Notice to Vacate served to tenant(s).

ONE Military Affidavit

ONE Military Status Report

ONE Service Information Sheet

ONE Justice Court Case Information Sheet

Always keep track of your case numbers so that you can refer to them when calling our office regarding your case. The case number will be on your receipt.

As Plaintiff, if you no longer wish to pursue your case you must notify the Court in writing as soon as possible and at least one day prior to the day of trial and to avoid the sheriff or constable attempting service to those where service is not necessary. The fax number for the Court is (325)659-6459.

DISCOVERY: ANY AND ALL PRE TRIAL/PRE JUDGMENT DISCOVERY MUST BE APPROVED BY THE COURT. PLEASE REFER TO SECTION 500.9 OF THE NEW RULES.

RULE 501.4 REQUIRES YOU, AS PLAINTIFF OR DEFENDANT, TO SERVE THE OTHER PARTY WITH ANYTHING FILED WITH THE COURT IN THE MANNER PRESCRIBED BY THIS RULE.

Should you be granted possession of the property and the defendant fails to move or fails to appeal to the County Court within 5 days, you may request a **Writ of Possession** ordering the defendant to move. The Writ may be requested (in writing) at **the beginning of the 6th day following the date the Judgment was signed by the Judge.**

This court does not collect the money judgment for you nor can we force an indigent defendant to pay the judgment. If you receive a judgment against the defendant, this court can issue various instruments to assist you in collecting the judgment. **IT IS RECOMMENDED THAT YOU CONSULT WITH AN ATTORNEY FOR THESE PROCESSES.** You may request an **Abstract of Judgment, Writ of Execution Writ of Garnishment, and Turnover Order.**

An Abstract Judgment puts a lien on any real property the defendant may own in a particular county where the Abstract is recorded. The Abstract is only valid in the county or counties where it is recorded. This can be obtained ten days after the date the judgment is signed.

The Writ of Execution may be obtained thirty days after the judgment is signed. This document will authorize the Sheriff or Constable to seize any assets belonging to the defendant that are subject to this writ. Those assets are then auctioned at a public sale and the proceeds are applied to the judgment.

A Writ of Garnishment is also available 30 days after the final judgment has been signed. This Garnishment proceeding is a separate suit wherein you are the plaintiff and the defendant's bank becomes the defendant. You are actually suing the bank in which the original defendant has his bank account. You are warning the said bank to freeze the monetary assets of his account and to appear and make answer to the Garnishment suit. **An attorney is required.**

A Turnover Order is available after the judgment is signed and its purpose is to provide a court-ordered means of reaching property which cannot easily be reached thorough ordinary legal process and which is exempt from attachment, execution, etc. **An attorney should be used** because the courts clerical staff will not be able by law to assist you in drafting the documents that are necessary.

A Subpoena may be requested if you need a witness(s) in your case. Except as provided by Section 22.002, a witness is entitled to **\$10 dollars** for each day the witness attends court. This fee includes the entitlement for travel and the witness is not entitled to any reimbursement for mileage traveled. The **party who summons** the witness shall pay that witness's fee for one day, as provided by this section, at the time the subpoena is served on the witness. The witness fee must be taxed in the bill of costs as other costs.

Fee Schedule for Eviction suits: (MONEY ORDERS ONLY – NO CASH OR CHECKS ACCEPTED)

	<u>Court Fees</u>	<u>Service Fees</u>	<u>Total</u>
Filing fee-Defendant in Tom Green Co.	\$46	\$ 85	\$ 131
2 Defendants (same case)	\$46	\$170	\$ 216
Defendant out-of-County	\$46	(call for amount)	

Jury Fee \$22.00

(Request for Jury must be made and fee paid no later than 14 days before the case is set for trial. If not timely made, the right to a jury trial is waived).

	<u>Court Fees</u>	<u>Service Fees</u>	<u>Total</u>
Abstract of Judgment	\$5.00		\$5.00
Writ of Possession	\$5.00	\$200.00	\$205.00
Writ of Execution	\$5.00	\$200.00	\$205.00
Subpoena	Contact the Court		
Writ of Garnishment	\$46.00	\$200.00	\$246.00
Turnover Order	\$5.00	\$200.00	\$205.00

LEGAL VACATE NOTICE (3 days)

OWNERS NAME: _____

ADDRESS: _____

CITY/STATE/ZIP: _____

TELEPHONE: _____

DATE SERVED: _____

TO: _____ AND ALL OTHER OCCUPANTS

(All persons intended to be evicted should be listed by name if known)

Being entitled to possession of the following described real estate and premises, I hereby demand possession of the same from you, to-wit: (full address of premises)

Suit for eviction will be filed unless the premises rented to you are vacated with **(3)** days from delivery of this notice.

SIGNATURE (Owner/Agent)

Print Signature from above

WITNESS SIGNATURE

Date Witnessed

This form is provided to you as a courtesy. You should refer to Section 24.005, Texas Property Code.

LEGAL VACATE NOTICE (30 days)

OWNERS NAME: _____

ADDRESS: _____

CITY/STATE/ZIP: _____

TELEPHONE: _____

DATE SERVED: _____

TO: _____ AND ALL OTHER OCCUPANTS
(All persons intended to be evicted should be listed by name if known)

Being entitled to possession of the following described real estate and premises, I hereby demand possession of the same from you, to-wit: (full address of premises)

Suit for eviction will be filed unless the premises rented to you are vacated with **(30)** days from delivery of this notice.

SIGNATURE (Owner/Agent)

Print Signature from above

WITNESS SIGNATURE

Date Witnessed

This form is provided to you as a courtesy. You should refer to Section 24.005, Texas Property Code.

PETITION: EVICTION CASE

CASE NO. (Court use only) _____ With suit for Rent COURT DATE: ____/____/____ TIME: _____

PLAINTIFF: _____ In the Justice Court, Precinct 1, Tom Green County, Texas
(Landlord/Property Name)
VS. Government entity Rental Subsidy (if any) \$ _____
Tenant's Portion \$ _____
DEFENDANT(S): _____ TOTAL MONTHLY RENT \$ _____

COMPLAINT: Plaintiff (Landlord) hereby complains of the defendant(s) named above for eviction of plaintiff's premises (including storerooms and parking areas) located in the above precinct. Address of the property is:

Street Address Unit No. (If any) City State Zip

1. [] SERVICE OF CITATION: Service is requested on defendants by personal service at home or work or by alternative service as allowed by the Texas Justice Court Rules of Court. Other addresses where the defendant(s) may be served are: _____

2. [] UNPAID RENT AS GROUNDS FOR EVICTION: Defendant(s) failed to pay rent for the following time period(s): _____. TOTAL DELINQUENT RENT AS OF DATE OF FILING IS: \$ _____. Plaintiff reserves the right to orally amend the amount at trial to include rent due from the date of filing through the date of trial.

3. [] OTHER GROUNDS FOR EVICTION/LEASE VIOLATIONS: Lease Violations (if other than non-paid rent – list lease violations) _____

4. [] HOLDOVER AS GROUNDS FOR EVICTION: Defendant(s) are unlawfully holding over since they failed to vacate at the end of the rental term or renewal of extension period, which was the ____ day of _____, 20____.

5. [] NOTICE TO VACATE: Plaintiff has given defendant(s) a written notice to vacate (according to Chapter 24.005 of the Texas Property Code) and demand for possession. Such notice was delivered on the ____ day of _____, 20____ and delivered by this method: _____

6. [] ATTORNEY'S FEES: Plaintiff [] will be or [] will NOT be seeking applicable attorney's fees. Attorney's name, address, and phone & fax numbers are: _____

7. [] BOND FOR POSSESSION: If Plaintiff has filed a bond for possession, plaintiff requests (1) that the amount of plaintiff's bond and defendant's counter bond be set, (2) that plaintiff's bond be approved by the Court, and (3) that proper notices as required by the Texas Justice Court Rules are given to defendant(s).

REQUEST FOR JUDGMENT: Plaintiff prays that defendant(s) be served with citation and that plaintiff have judgment against defendant(s) for: possession of premises, including removal of defendants and defendants' possessions from the premises, unpaid rent IF set forth above, attorney's fees, court costs, and interest on the above sums at the rate stated in the rental contract, or if not so stated, at the statutory rate for judgments under Civil Statutes Article 5069-1.05.

I have reviewed the information about the Texas Eviction Diversion Program available at www.txcourts.gov/eviction-diversion/

[] I give my consent for the answer and any other motions or pleadings to be sent to my email address which is: _____

Petitioner's Printed Name

Signature of Plaintiff (Landlord/Property Owner) or Agent

Address of Plaintiff (Landlord/Property Owner) or Agent

Sworn to and subscribed before me this _____ day of _____, 20____.

City State Zip

CLERK OF THE JUSTICE COURT OR NOTARY

Phone & Fax No. of Plaintiff (Landlord/Property Owner) or agent

In addition to the above information, the Service members' Civil Relief Act has become law. The legislation, passed by Congress and signed by the President, took effect immediately when it was signed on December 19, 2003.

When filing any Civil Suits this form MUST be filled out with proof of military status report and accompany the complaint upon filing. Military status can be determined at <https://scra.dmdc.osd.mil/> The fees remain the same.

CASE NO. _____

**MILITARY AFFIDAVIT
SEC. 201 (b)**

Plaintiff being duly sworn on oath deposes and says that defendant(s):

is not in the military

not on active duty in the military and/or

not in a foreign country on military service

is on active military duty and/or is subject to the Service members Civil Relief Act of 2003

military status unknown at this time

PLAINTIFF SIGNATURE

Subscribed and sworn to before me on this the ____ day of _____, 20__.

NOTARY PUBLIC IN AND FOR THE STATE OF
TEXAS/CLERK OF THE JUSTICE COURT

Penalty for making or using false affidavit – a person who makes or uses an affidavit knowing it to be false, shall be fined as provided in title 18 United States Code, or imprisoned for not more than one year, or both.

CONSTABLE INFORMATION SHEET

PLEASE COMPLETE THIS INFORMATION TO EXPEDITE SERVICE OF YOUR PAPERS.

PLAINTIFF NAME: _____

RESIDENCE: _____

PLACE OF EMPLOYMENT: _____

RESIDENCE PHONE: _____ **WORK PHONE:** _____

Number at which you can be reached or can leave a message: _____

DAYTIME FAX: _____

EMAIL: _____

DEFENDANT NAME: _____

DATE OF BIRTH: _____ **LAST 3# OF DL/SS#:** _____

RESIDENCE: _____

PLACE OF EMPLOYMENT: _____

RESIDENCE PHONE: _____ **WORK PHONE:** _____

MAIL ADDRESS IF DIFFERENT: _____

TYPE OF RESIDENCE: _____

Description of residence and any special direction:

JUSTICE COURT CIVIL CASE INFORMATION SHEET (4/13)

CAUSE NUMBER (FOR CLERK USE ONLY): _____

STYLED _____

(e.g., John Smith v. All American Insurance Co; In re Mary Ann Jones; In the Matter of the Estate of George Jackson)

A civil case information sheet must be completed and submitted when an original petition is filed to initiate a new suit. The information should be the best available at the time of filing. This sheet, required by Rule of Civil Procedure 502, is intended to collect information that will be used for statistical purposes only. It neither replaces nor supplements the filings or service of pleading or other documents as required by law or rule. The sheet does not constitute a discovery request, response, or supplementation, and it is not admissible at trial.

1. Contact information for person completing case information sheet:		2. Names of parties in case:
Name: _____ Address: _____ City/State/Zip: _____ Email: _____ Signature: _____	Telephone: _____ Fax: _____ State Bar No: _____	Plaintiff(s): _____ _____ Defendant(s): _____ _____ _____ _____ [Attach additional page as necessary to list all parties]
3. Indicate case type, or identify the most important issue in the case (select only 1):		
<input type="checkbox"/> Debt Claim: A debt claim case is a lawsuit brought to recover a debt by an assignee of a claim, a debt collector or collection agency, a financial institution, or a person or entity primarily engaged in the business of lending money at interest. The claim can be for no more than \$20,000, excluding statutory interest and court costs but including attorney fees, if any.	<input type="checkbox"/> Eviction: An eviction case is a lawsuit brought to recover possession of real property, often by a landlord against a tenant. A claim for rent may be joined with an eviction case if the amount of rent due and unpaid is not more than \$20,000, excluding statutory interest and court costs but including attorney fees, if any.	
<input type="checkbox"/> Repair and Remedy: A repair and remedy case is a lawsuit filed by a residential tenant under Chapter 92, Subchapter B of the Texas Property Code to enforce the landlord's duty to repair or remedy a condition materially affecting the physical health or safety of an ordinary tenant. The relief sought can be for no more than \$20,000, excluding statutory interest and court costs but including attorney fees, if any.	<input type="checkbox"/> Small Claims: A small claims case is a lawsuit brought for the recovery of money damages, civil penalties, personal property, or other relief allowed by law. The claim can be for no more than \$20,000, excluding statutory interest and court costs but including attorney fees, if any.	